

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SOCORRO ZAMUDIO-REYES,

Petitioner,

v.

M. E. SPEARMAN,

Respondent.

Case No. [13-cv-03175-VC](#) (PR)

**ORDER REOPENING CASE AFTER  
REMAND; REFERRING CASE TO  
OFFICE OF PUBLIC DEFENDER TO  
LOCATE COUNSEL TO REPRESENT  
PETITIONER; STAYING CASE**

On December 8, 2014, this Court issued an order granting the respondent's motion to dismiss as untimely Socorro Zamudio-Reyes's pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254. Zamudio-Reyes appealed. On January 9, 2018, the Ninth Circuit issued an order vacating this Court's order because it did not "apply a more flexible, fact-intensive approach in its treatment of Zamudio-Reyes's testimony." The Ninth Circuit remanded for this Court to determine whether "Zamudio-Reyes is entitled to equitable tolling from July 13, 2010 (the date Zamudio-Reyes's state sentence became final) to approximately January 15, 2012." The mandate issued on February 6, 2018.

Accordingly, this case is reopened.

In his petition, Zamudio-Reyes indicates he speaks no English. He was assisted in prosecuting his federal petition by a "jail house litigator." Also, in his petition, Zamudio-Reyes indicates he was sentenced in 2010 to six years in prison. Therefore, Zamudio-Reyes may no longer be in custody; his current address is unknown to the Court.

Title 18 U.S.C. § 3006A(a)(2)(B) authorizes a district court to appoint counsel to represent a habeas petitioner whenever "the court determines that the interests of justice so require and such person is financially unable to obtain representation." The decision to appoint counsel is within the discretion of the district court. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th

Cir. 1986). Under the circumstances of this case, the Court finds the interests of justice require that counsel be appointed to represent Zamudio-Reyes on both equitable tolling and the merits of the habeas claims.

In his appeal before the Ninth Circuit, Zamudio-Reyes was represented by Sandi Yoshiko Irwin of the Office of the Federal Public Defender in San Francisco. Because Ms. Irwin has previously represented Zamudio-Reyes, it would be most efficacious if she were to represent him for the matters pending before this Court. Therefore, this matter is being referred to the Officer of the Public Defender to locate counsel, either Ms. Irwin or other available counsel, to represent Zamudio-Reyes.

Upon being notified by the Office of the Federal Public Defender that an attorney has been located, the Court, by separate order, will appoint such attorney as counsel for Zamudio-Reyes. All further proceedings in this matter will be stayed until such time as counsel has been appointed.

**IT IS SO ORDERED.**

Dated: April 6, 2018

A handwritten signature in black ink, appearing to read 'VCH', is written above a horizontal line.

VINCE CHHABRIA  
United States District Judge